

MONTANA LEGISLATIVE HISTORY

Chapter 391 19 99

Bill H 116 S _____

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) 1-12 ✓ c

1-15 ✓ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 3-3 ✓ c

3-4 ✓ c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

1/26 Fiscal Note Received
 1/28 Fiscal Note Printed
 3/01 Missed Deadline for General Bill Transmittal

SB 249 Introduced by Keating, et al. *LC0482 Drafter: Mitchell*

Repeal the Resource Indemnity Trust Tax When the Balance in the Resource Indemnity Trust Totals \$100 Million;...

1/21	Introduced and 1st Reading		
1/21	Referred to Natural Resources		
1/21	Fiscal Note Requested		
1/27	Fiscal Note Received		
1/27	Fiscal Note Signed		
1/28	Fiscal Note Printed		
1/29	Hearing		
2/08	Committee Executive Action--Bill Passed	7	3
2/08	Committee Report--Bill Passed		
2/09	2nd Reading Passed	31	18
2/10	3rd Reading Passed	31	18
	Transmitted to House		
2/16	Referred to Taxation		
3/10	Hearing		
4/07	Tabled in Committee		
	Died in Standing Committee		

SB 250 Introduced by Bartlett *LC1497 Drafter: Petesch*

Eliminate the Extended Jurisdiction Prosecution Act for Minors;...

By Request of Senate Judiciary Standing Committee

1/21	Introduced and 1st Reading		
1/21	Referred to Judiciary		
1/25	Hearing		
2/12	Committee Executive Action--Bill Passed	8	1
2/12	Committee Report--Bill Passed		
2/13	2nd Reading Passed	45	0
2/15	3rd Reading Passed	49	1
	Transmitted to House		
2/16	Referred to Judiciary		
3/09	Hearing		
3/10	Tabled in Committee		
	Died in Standing Committee		

SB 251 Introduced by Halligan *LC1543 Drafter: MacMaster*

Clarify a Court's Authority to Require an Assessment of Chemical Dependency Prior to Sentencing a Person for Driving under the Influence or with an Illegal Blood Alcohol Content;...

1/08 Fiscal Note Needed
 1/21 Introduced and 1st Reading
 1/21 Referred to Judiciary

2/11	Hearing		
2/15	Committee Executive Action--Bill Passed as Amended	8	0
2/16	Committee Report--Bill Passed as Amended		
2/17	2nd Reading Passed	50	0
2/18	3rd Reading Passed	48	0

	Transmitted to House		
2/20	Referred to Judiciary		
3/22	Hearing		
3/25	Committee Executive Action--Bill Concurred as Amended	19	1
3/26	Committee Report--Bill Concurred as Amended		
3/31	2nd Reading Concurred as Amended	92	6
4/01	3rd Reading Concurred	93	7

	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Concurred	50	0
4/09	3rd Reading Passed as Amended by House	49	1
4/12	Sent to Enrolling		
4/13	Returned from Enrolling		
4/14	Signed by President		
4/15	Signed by Speaker		
4/15	Transmitted to Governor		
4/22	Signed by Governor		
4/23	Chapter Number Assigned		
	Chapter Number 455		
	Effective Date: 10/01/1999 - All Sections		

SB 252 Introduced by Grosfield *LC0976 Drafter: Everts*

Repeal the Existing Air Quality Preconstruction Permit Application Fee and Impose a New Fee;...

1/21	Introduced and 1st Reading		
1/21	Referred to Natural Resources		
1/21	Fiscal Note Requested		
1/25	Fiscal Note Received		
1/25	Fiscal Note Signed		
1/25	Fiscal Note Printed		
2/01	Hearing		
3/27	Tabled in Committee		
3/31	Missed Deadline for Revenue Bill Transmittal		

SB 253 Introduced by Grosfield *LC0979 Drafter: Everts*

Repeal the Existing Air Quality Operating Fee and Impose a New Fee;...

1/21	Introduced and 1st Reading		
1/21	Referred to Natural Resources		
1/25	Sponsor Fiscal Note Requested		
2/01	Sponsor Fiscal Note Received		
2/01	Sponsor Fiscal Note Signed		
2/01	Hearing		
2/01	Sponsor Fiscal Note Printed		
3/27	Tabled in Committee		
3/31	Missed Deadline for Revenue Bill Transmittal		

HOUSE BILL NO. 116

INTRODUCED BY MCGEE D

BY REQUEST OF THE CORRECTIONAL STANDARDS AND OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PENALTIES FOR FOURTH OFFENSE DUI AND DRIVING WITH EXCESSIVE ALCOHOL CONCENTRATION; PROVIDING THAT MANDATORY IMPRISONMENT MAY BE SUSPENDED WHILE AN OFFENDER ATTENDS A RESIDENTIAL CORRECTIONAL PROGRAM THAT PROVIDES INTENSIVE OUTPATIENT CHEMICAL DEPENDENCY TREATMENT; AND AMENDING SECTION 61-8-731, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense. (1) On the fourth or subsequent conviction under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, the person is guilty of a felony and shall be punished by:

(a) imprisonment for a term of not less than 6 months or more than 13 months, the imposition or execution of which may not be suspended, except as provided in subsection (6), and during which the person is not eligible for parole;

(b) probation for a term of not less than 1 year or more than 4 years; and

(c) a fine of not less than \$1,000 or more than \$10,000.

(2) The court shall, subject to sentencing restrictions:

(a) specify one of the following facilities as the initial place in which the term of imprisonment must be served:

(i) a state prison;

(ii) a regional correctional facility;

(iii) a county jail;

(iv) a boot camp, provided the prior approval of the department of corrections has been obtained;

or

1 (v) a prerelease center, provided the prior approval of the department of corrections has been
2 obtained; or

3 (b) sentence the person to the department of corrections for placement in an appropriate
4 correctional institution or program; and

5 (c) order a person who is financially able to pay the costs of imprisonment and probation under
6 this section and of the information course and treatment under 61-8-732.

7 (3) The sentencing judge may impose upon the defendant any reasonable restrictions or
8 conditions during the period of probation. Reasonable restrictions or conditions may include:

9 (a) payment of a fine as provided in 46-18-231;

10 (b) payment of costs as provided in 46-18-232 and 46-18-233;

11 (c) payment of costs of court-appointed counsel as provided in 46-8-113;

12 (d) community service;

13 (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for
14 the protection of society;

15 (f) treatment in a state-approved public or private treatment facility; or

16 (g) any combination of the restrictions or conditions listed in subsections (3)(a) through (3)(f).

17 (4) (a) Following initial placement of a defendant in a boot camp or a prerelease center under
18 subsection (2)(a), the department of corrections may, at its discretion, place the offender in another
19 facility or program.

20 (b) The department of corrections may order all or any portion of the term of probation to be
21 served under intensive supervision. The provisions of Title 46, chapter 23, part 10, relating to probation,
22 apply to the probation.

23 (5) If a violation of the restrictions or conditions of the probation is established, the court may
24 continue the period of probation or may require the defendant to serve the remainder of the probation
25 sentence in one of the facilities set forth in subsection (2)(a) or (2)(b). The court may credit the remainder
26 of the probation or the time to be served in a facility set forth in subsection (2)(a) or (2)(b) with all or part
27 of the time already served on probation.

28 (6) The court may suspend execution of a sentence of imprisonment under subsection (1)(a) for
29 a period of up to 13 months and order the person to attend a residential correctional program that
30 provides intensive outpatient chemical dependency treatment. The offender, if financially able, shall pay

the expense of the treatment in the program. If the person fails to complete the program, the court shall
revoke the suspended sentence, after a hearing as provided for in 46-18-203, and impose execution of
the sentence of imprisonment originally imposed under subsection (1)(a)."

- END -

FISCAL NOTE

HB0116

Title: Sentence 4th DUI to treatment and correctional program

Primary Sponsor: Dan McGee

Status: As introduced

Dan McGee
Sponsor signature Date

Dave Lewis 1-8-99
Dave Lewis, Budget Director Date

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:	\$0	\$0
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	Unknown	Unknown

	<u>Yes</u>	<u>No</u>	
X Significant Local Gov. Impact	X		Technical Concerns
X Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

As of 1/5/99 there were 53 offenders incarcerated either for a DUI offense or for a probation/parole violation on a DUI offense. This population includes offenders at Montana State Prison, Montana Women's Prison, Great Falls Regional Prison, Dawson County Prison, West Tennessee Detention Facility and Central Arizona Detention Center. It does not include offenders in the pre-release centers, the boot camp, or under Intensive Supervision Program. This includes only individuals who are currently serving prison sentences solely for 4th DUI offenses.

The Department of Corrections (DOC) is unable to measure the fiscal impact of this bill because there is not way to estimate how this sentencing option would be used by the courts and because of the technical concerns noted.

HB 116

3. It is possible that some fiscal impact to the DOC budget could be offset by offenders who could pay for this program. The DOC does not have calculations on how many offenders would be able to pay.
4. This bill has no fiscal impact to the Department of Justice.

TECHNICAL NOTES:

Definition of "residential correctional program that provides intensive outpatient chemical dependency treatment" is unclear. If the DOC assumes this is a program similar to the Butte Connections Corrections program, the additional cost per inmate day would be \$64. There is a potential of savings for those offenders who are successful in this type of program and are not incarcerated; however, those unsuccessful offenders would likely be incarcerated upon failure of the program, thereby increasing the cost to the DOC.

If the courts sentence more offenders to treatment, there could be a decrease in the number of offenders sentenced to probation. This would be an increased expense to the DOC because the treatment cost is more than the cost to supervise an offender on probation. There could also be an increase in county jail holding costs as offenders wait for available treatment placement.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Judiciary -

04:00 PM

-
- HB 104** SPONSOR: Hagener, Toni SHORT TITLE: Emergency vote for surcharge for court technology
BY REQUEST OF: Supreme Court
REFERRED ON: 12/23/1998 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 02/17/1999 Bill Passed as Amended -- VOTE: 15 - 5
TABLED ON: 02/02/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 106** SPONSOR: McCulloch, Linda SHORT TITLE: Adopt & implement the nation crime prevention & privacy compact
BY REQUEST OF: Department Of Justice
REFERRED ON: 12/23/1998 HEARD ON: 01/13/1999
EXECUTIVE ACTION: 01/27/1999 Bill Passed as Amended -- VOTE: 14 - 5
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- HB 115** SPONSOR: McGee, Dan SHORT TITLE: Increase the maximum commitment to the dept. of corrections
BY REQUEST OF: Department Of Corrections
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/19/1999 Bill Passed as Amended -- VOTE: 17 - 2
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 116** SPONSOR: McGee, Dan SHORT TITLE: Revise penalties for 4th offense DUI and driving with excessive alcohol level
BY REQUEST OF: Correctional Standards And Oversight Committee
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/15/1999 Bill Passed as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- HB 127** SPONSOR: Johnson, Royal SHORT TITLE: Generally revise child support enforcement laws to improve services
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 01/04/1999 HEARD ON: 01/18/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 15 - 5
TABLED ON: 02/11/1999
FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C CLARK**, on January 12, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: Rep. Sam Kitzenberg (R)

Staff Present: John MacMaster, Legislative Services Division
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing Date: 1/12/99HB 104, HB 115, HB116, HB180
Date Posted: 1/6/99
Executive Action: none taken

Mike Ferriter, Director of Community Corrections Division,
Montana Dept. of Corrections

{Tape : 1; Side : A; Approx. Time Counter : 245 - 387}

EXHIBIT(juh08a0

4)

EXHIBIT(juh08a0

5)

EXHIBIT(juh08a0

6)

Mary Fay, Bureau Chief, Parole and Probation Officers, Montana
Dept. of Corrections

{Tape : 1; Side : A; Approx. Time Counter : 387 - 502}

EXHIBIT(juh08a0

7)

{Tape : 1; Side : B; Approx. Time Counter : 0 - 10}

Sen. Christiaens, Senator from Great Falls, Montana

{Tape : 1; Side : B; Approx. Time Counter : 10 - 46}

EXHIBIT(juh08a1

0)

(exhibit handed in after meeting)

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 46 - 550}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 550}

{Tape : 2; Side : B; Approx. Time Counter : 0 - 11}

Closing by Sponsor:

Rep. McGee made the closing statement.

{Tape : 2; Side : B; Approx. Time Counter : 11 - 103}

HEARING ON HB 116

Sponsor:

Rep. McGee opened HB 116.

{Tape : 2; Side : B; Approx. Time Counter : 103 - 200}

EXHIBIT(juh08a0

8)

Proponents:

Candace Payne, Rimrock Foundation

{Tape : 2; Side : B; Approx. Time Counter : 200 - 245}

EXHIBIT(juh08a0

9)

Mona Jamison, Montana Addiction Service Providers

{Tape : 2; Side : B; Approx. Time Counter : 245 - 306}

Senator Christaiens, Senator from Great Falls, Montana

{Tape : 2; Side : B; Approx. Time Counter : 306 - 373}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 373 - 500}

{Tape : 3; Side : A; Approx. Time Counter : 0 - 88}

Closing by Sponsor:

Rep. McGee made closing remarks.

{Tape : 3; Side : A; Approx. Time Counter : 88 - 107}

HEARING ON HB 180

Sponsor:

Rep. Soft made opening statements HB 180.

{Tape : 3; Side : A; Approx. Time Counter : 107 - 238}

Proponents:

Chuck Hunter, Montana Dept. of Public Health and Human Services

{Tape : 3; Side : A; Approx. Time Counter : 238 - 435}

EXHIBIT(juh08a1

1)

EXHIBIT(juh08a1

2)

EXHIBIT(juh08a1

3)

EXHIBIT(juh08a1

4)

EXHIBIT(juh08a1

7)

Sponsor:

Rep. Shockley presented HB 209.

{Tape : 3; Side : A; Approx. Time Counter : 296 - 386}

Proponents:

Al Smith, Montana Trial Lawyers Association

{Tape : 3; Side : A; Approx. Time Counter : 386 - 420}

Opponents:

Elizabeth Horsman, Montana County Attorneys Association

{Tape : 3; Side : A; Approx. Time Counter : 420 - 550}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 43}

Chairman Clark deemed Ms. Horsman's testimony as an Opponent not informational as she originally testified.

Informational Testimony:

Kim Christopher, Lake County Attorney

{Tape : 3; Side : B; Approx. Time Counter : 43 - 76}

Questions from Committee Members and Responses:

{Tape : 3; Side : B; Approx. Time Counter : 76 - 302}

Closing by Sponsor:

Rep. Shockley made closing statements.

{Tape : 3; Side : B; Approx. Time Counter : 302 - 329}

EXECUTIVE ACTION ON HB 116

Motion/Vote: Rep. McGee moved that HB 116 be PASSED as amended. Motion carried 18-2 with Jore and Molnar voting no.

Motion/Vote: Rep. Soft moved that HB 180 be PASSED as amended. Motion carried 15-5 with Clark, Curtiss, Jore, McGee, and Molnar voting no.

{Tape : 3; Side : B; Approx. Time Counter : 329 - 550}

{Tape : 4; Side : A; Approx. Time Counter : 0 - 550}

{Tape : 4; Side : B; Approx. Time Counter : 0 - 550}

{Tape : 5; Side : A; Approx. Time Counter : 0 - 53}

HB 77 was discussed and postponed to a later date.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Judiciary -

04:57 PM

-
- HB 104** SPONSOR: Hagener, Toni SHORT TITLE: Emergency vote for surcharge for court technology
BY REQUEST OF: Supreme Court
REFERRED ON: 02/23/1999 HEARD ON: 03/02/1999
TABLED ON: 03/02/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 106** SPONSOR: McCulloch, Linda SHORT TITLE: Adopt & implement the nation crime prevention & privacy compact
BY REQUEST OF: Department Of Justice
REFERRED ON: 02/02/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/17/1999 Bill Concurred -- VOTE: 9 - 0
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- HB 109** SPONSOR: Mercer, John SHORT TITLE: Allow Dept of Justice automated video gambling, accounting and reporting system
BY REQUEST OF: Department Of Justice
REFERRED ON: 03/04/1999 HEARD ON: 03/22/1999 (S) Discussed in Committee ON: 03/24/1999
EXECUTIVE ACTION: 03/27/1999 Bill Concurred as Amended -- VOTE: 8 - 1
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 111** SPONSOR: Guggenheim, Mary Anne SHORT TITLE: Establish standards related to genetic information in issuing health insurance
BY REQUEST OF: State Auditor
REFERRED ON: 02/02/1999
FINAL DISPOSITION 04/20/1999 Chapter Number Assigned
-
- HB 115** SPONSOR: McGee, Dan SHORT TITLE: Increase the maximum commitment to the dept. of corrections
BY REQUEST OF: Department Of Corrections
REFERRED ON: 02/22/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/24/1999 Bill Concurred as Amended -- VOTE: 8 - 0
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 116** SPONSOR: McGee, Dan SHORT TITLE: Revise penalties for 4th offense DUI and driving with excessive alcohol level
BY REQUEST OF: Correctional Standards And Oversight Committee
REFERRED ON: 01/27/1999 HEARD ON: 03/03/1999
EXECUTIVE ACTION: 03/04/1999 Bill Concurred as Amended -- VOTE: 7 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 3, 1999
at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 48, 2/25/1999; HB 116,
2/25/1999; HB 214, 2/25/1999
Executive Action: HB 48; HB 214; HB 233

HEARING ON HB 116

Sponsor: REP. DAN MCGEE, HD 21, Laurel

Proponents:

SEN. CHRIS CHRISTIAENS, SD 23, Great Falls
Mike Ferriter, Community Corrections

Mike Ruppert, Boyd Andrew Chemical Dependency Center in Helena
Candace Payne, Rimrock Foundation
Charles Brookes, State DUI Task Force
Mona Jamison, MT Addiction Service Providers

Opponents: None

Opening Statement by Sponsor:

REP. DAN MCGEE, HD 21, Laurel, said in current law the court may not defer sentences in a fourth time DUI. This bill allows the court to consider the alternative of a state approved public or private treatment facility that provides the appropriate level of chemical dependency treatment. He said on page 3 they struck language pertaining to suspending the sentence by the court. But there was some problems with that as the district court would have to pay for the treatment. However, with the language on page 2, the payment for treatment would be under the Department of Corrections budget. He said there are different types of treatment facilities and this language allows a broad range of facilities that can be used. This is not getting soft on crime, the hardest thing anyone might have to do is deal with their chemical dependency. If someone has been sentenced to prison for a fourth time DUI, they really don't have to deal with their problem and they are likely to re-offend once they have served their sentence.

Proponents' Testimony:

SEN. CHRIS CHRISTIAENS, SD 23, Great Falls, rose in support of HB 116.

Mike Ferriter, Community Corrections, said this bill allows one additional place to incarcerate fourth time DUI offenders. This bill provides the Department of Corrections the authority necessary to ensure that the treatment facility not only meets the needs of the offender, but considers the safety of the public. The Department has not yet resolved the issue of trying to finance the placement of the offender if they don't have the ability to pay. Potential solutions include utilizing limited pre-release funds or funds used for outpatient treatment by probation and parole status offenders.

Mike Ruppert, Boyd Andrew Chemical Dependency Center in Helena, said there was some original concern that this bill may take away from punishment and put too much on rehabilitation. But the bottom line is they could punish offenders for any period of time and will still re-offend unless they get some treatment.

Candace Payne, Rimrock Foundation, said their organization can provide a broad range of treatment services to the fourth time DUI offenders, including inpatient, intensive outpatient, and long term after care.

Charles Brookes, State DUI Task Force, said treatment is one of the key elements for alcohol and drug abuse. He said they like the component in the bill that if offenders are able to pay they should pay for the treatment themselves.

Mona Jamison, MT Addiction Service Providers, said on page 2 it allows the court to specify sentencing to a treatment facility that is approved by the state.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. SUE BARTLETT asked where the requirement for the offender to pay for the treatment is in the bill. **Mike Ferriter** said page 2, line 6 (c).

SEN. BARTLETT said is this under 61-8-731, a different section of law, and perhaps they need an amendment to make this clear. She said on page 2, line 20, subsection 4(a) talks about initial placement of a defendant in a pre-release center or boot camp. Is this only limited to a boot camp and a pre-release center and should the treatment be defined. **Mike Ferriter** said the bill requires six to thirteen months of imprisonment. The boot camp program is four months and in order to satisfy the sentence of six months the defendant would need to go to a pre-release center, etc. The Department has to insure that the minimum sentence is carried out.

SEN. DUANE GRIMES said this would be an acceptable alternative if judges don't start creating another cost impact because they assign probation less and treatment centers more. It appears on the surface that costs would go down because there would be less incarceration, but the technical notes don't show that. **REP.**

MCGEE said page 3, line 5, the offender has to pay if he is financially able. But there are a lot of people that are not financially able. Fourth time DUIs don't go to probation, they go to pre-release centers or the Montana State Prison. Fourth time DUIs are treated as felony offenders and do not go straight to probation. This means that dollars are being spent on them right now. The cost to go through a treatment facility is not a whole lot more than it is to go to a pre-release center. The total fiscal impact initially may be higher, but in the long run it will be less as they spend less time on fourth time DUIs.

SEN. GRIMES asked if they had thought about doing this for second or third time DUI's and what is the cost impact of this bill.

Mike Ferriter said as far as cost they have not requested a budget appropriation for this project. They would like to explore it and utilize pre-release funds. Pre-release programs cost around \$40 per day. The cost of this program will be more as there is treatment involved rather than the traditional correctional setting. This is one option of six that may work. He said the Department of Corrections only gets involved in fourth time DUIs. It is the felony offender by law that is required to do six months of imprisonment. They don't handle 1-3 DUI offenders at the felony level. Probation is not an option for 4th time DUI offenders.

SEN. BARTLETT said she would like to see the number of offenders committed to the correctional system for fourth time DUI's. **Mike Ferriter** said he could get more detailed information but on January, 27, 1999 there were 49 offenders at the Montana State Prison serving time for fourth time DUI.

Closing by Sponsor:

REP. MCGEE said this is an option available to the court. The court does not have to choose this option and would not be appropriate for someone who has committed another crime.

{Tape : 1; Side : A; Approx. Time Counter : 9:33 a.m.}

HEARING ON HB 214

Sponsor: **REP. DAN MCGEE, HD 21, Laurel**

Proponents:

Virginia Mueller, Mueller Consulting
Larry Marshall, MT Associates Inc.
Frank Ritchie, Ritchie Land Surveying
Stephen Ries, Ries Surveying

Opponents: None

Opening Statement by Sponsor:

REP. DAN MCGEE, HD 21, Laurel, read the title of the bill. He also read lines 12-15. He said if he is hired to stake out the base of the Capitol Building so it can be constructed, this building is an improvement to the land. It is not always understood that if he stakes the corner boundaries of the

EXECUTIVE ACTION ON HB 176

Motion/Vote: SEN. HOLDEN moved that HB 176 BE CONCURRED IN.
Motion carried unanimously -7-0.

EXECUTIVE ACTION ON HB 116

SEN. BARTLETT explained that the amendments she requested, HB011601.avl, EXHIBIT(10), made clear that an offender sentenced to the treatment facility who was capable of paying for the treatment was required to pay the same.

Ms. Lane added that the second amendment addressed placement.

SEN. BARTLETT explained that currently if the offender is placed in a prerelease or a boot camp, the Department of Corrections may place the offender in another facility or program. The fourth offense DUI requires them to be under supervision in a facility for at least six months.

Motion/Vote: SEN. BARTLETT moved that HB 116 BE AMENDED. Motion carried unanimously -7-0.

Motion: SEN. HALLIGAN moved that HB 116 BE AMENDED - HB011602.avl, EXHIBIT(11).

Discussion:

SEN. HALLIGAN stated that he discussed this bill with SEN. VAN VALKENBURG who was involved with this bill several years ago. He believed the original intent was that at least the first six months of the fourth DUI offense sentence was not suspended. This is currently being interpreted that if the offender receives a one year sentence, none of this can be suspended. The amendment states that the first six months cannot be suspended.

Vote: Motion carried unanimously - 7-0.

Motion/Vote: SEN. HALLIGAN moved that HB 116 BE CONCURRED IN AS AMENDED. Motion carried unanimously - 7-0.